

AMENDED IN ASSEMBLY APRIL 9, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1907

Introduced by Assembly Member Bonnie Lowenthal

February 22, 2012

An act to amend Section 2602 of, *and to add Section 2603 to*, the Penal Code, relating to inmates.

LEGISLATIVE COUNSEL’S DIGEST

AB 1907, as amended, Bonnie Lowenthal. Inmates: psychotropic medication.

Existing law requires that no inmate be administered psychotropic medication on a nonemergency basis without the inmate’s informed consent, unless after a noticed hearing is conducted in which an administrative law judge determines by clear and convincing evidence that the inmate has a mental illness or disorder, that as a result of that illness the inmate is gravely disabled and lacks the capacity to consent or refuse treatment or is a danger to self or others if not medicated, that there is no less intrusive alternative to involuntary medication, and that the medication is in the inmate’s best interest. *Existing law authorizes the Department of Corrections and Rehabilitation to seek to initiate involuntary medication on a nonemergency basis only if specified conditions are met, including that a psychiatrist has determined that the inmate is gravely disabled or is a danger to self or others and does not have the capacity to refuse treatment with psychotropic medication.*

This bill would ~~extend these requirements~~ *revise the provisions authorizing the Department of Corrections and Rehabilitation to seek to initiate involuntary medication on a nonemergency basis only if specified conditions are met by instead requiring that the psychiatrist*

make a determination that the inmate is gravely disabled and does not have the capacity to refuse treatment with psychiatric medication, or is a danger to self or others. The bill would delete references to psychotropic medications throughout the provisions described above and instead refer to psychiatric medications. The bill would also enact provisions governing involuntary medication proceedings similar to those described above, as revised, that would be applicable to inmates in county jail for felony convictions that are not serious, violent, or sexual offenses, and would, in addition, authorize either a psychiatrist or a psychologist to make the determinations described above. The bill would provide that, for purposes of the provisions applicable to county inmates, the term “counsel” may include the county patient rights advocate. The bill would also make clarifying changes. Because this bill would place additional burdens on local governments, it would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2602 of the Penal Code is amended to
2 read:
3 2602. (a) Except as provided in subdivision (b), no person
4 sentenced to imprisonment *or housed* in a state prison ~~or to~~
5 ~~imprisonment pursuant to subdivision (h) of Section 1170~~ shall
6 be administered any ~~psychotropic~~ *psychiatric* medication without
7 his or her prior informed consent.
8 (b) If a psychiatrist determines that an inmate should be treated
9 with ~~psychotropic~~ *psychiatric* medication, but the inmate does not
10 consent, the inmate may be involuntarily treated with the
11 medication. Treatment may be given on either a nonemergency
12 basis as provided in subdivision (c), or on an emergency basis as
13 provided in subdivision (d).

1 (c) The Department of Corrections and Rehabilitation ~~or sheriff~~
2 may seek to initiate involuntary medication on a nonemergency
3 basis only if all of the following conditions have been met:

4 (1) A psychiatrist has determined that the inmate has a serious
5 mental disorder.

6 (2) A psychiatrist has determined that, as a result of that mental
7 disorder, the inmate is gravely disabled *and does not have the*
8 *capacity to refuse treatment with psychiatric medications* or is a
9 danger to self or others ~~and does not have the capacity to refuse~~
10 ~~treatment with psychotropic medications.~~

11 (3) A psychiatrist has prescribed one or more ~~psychotropic~~
12 *psychiatric* medications for the treatment of the inmate's disorder,
13 has considered the risks, benefits, and treatment alternatives to
14 involuntary medication, and has determined that the treatment
15 alternatives to involuntary medication are unlikely to meet the
16 needs of the patient.

17 (4) The inmate has been advised of the risks and benefits of,
18 and treatment alternatives to, the ~~psychotropic psychiatric~~
19 medication and refuses or is unable to consent to the administration
20 of the medication.

21 (5) The inmate is provided a hearing before an administrative
22 law judge.

23 (6) The inmate is provided counsel at least 21 days prior to the
24 hearing, *unless emergency medication is being administered*
25 *pursuant to subdivision (d), in which case the inmate would receive*
26 *expedited access to counsel.* The hearing shall be held not more
27 than 30 days after the filing of the notice with the Office of
28 Administrative Hearings, unless counsel for the inmate agrees to
29 extend the date of the hearing.

30 (7) The inmate and counsel are provided with written notice of
31 the hearing at least 21 days prior to the hearing, *unless emergency*
32 *medication is being administered pursuant to subdivision (d), in*
33 *which case the inmate would receive an expedited hearing.* The
34 written notice shall do all of the following:

35 (A) Set forth the diagnosis, the factual basis for the diagnosis,
36 the basis upon which ~~psychotropic psychiatric~~
37 recommended, the expected benefits of the medication, any
38 potential side effects and risks to the inmate from the medication,
39 and any alternatives to treatment with the medication.

1 (B) Advise the inmate of the right to be present at the hearing,
2 the right to be represented by counsel at all stages of the
3 proceedings, the right to present evidence, and the right to
4 cross-examine witnesses. Counsel for the inmate shall have access
5 to all medical records and files of the inmate, but shall not have
6 access to the confidential section of the inmate's central file which
7 contains materials unrelated to medical treatment.

8 (C) Inform the ~~prisoner~~ inmate of his or her right to contest the
9 finding of an administrative law judge authorizing treatment with
10 involuntary medication by filing a petition for writ of
11 administrative mandamus pursuant to Section 1094.5 of the Code
12 of Civil Procedure, and his or her right to file a petition for writ
13 of habeas corpus with respect to any decision of the Department
14 of Corrections and Rehabilitation ~~or sheriff~~ to continue treatment
15 with involuntary medication after the administrative law judge has
16 authorized treatment with involuntary medication.

17 (8) An administrative law judge determines by clear and
18 convincing evidence that the inmate has a mental illness or
19 disorder, that as a result of that illness the inmate is gravely
20 disabled and lacks the capacity to consent to or refuse treatment
21 with ~~psychotropic~~ psychiatric medications or is a danger to self
22 or others if not medicated, that there is no less intrusive alternative
23 to involuntary medication, and that the medication is in the
24 inmate's best medical interest. *In the event of any statutory notice*
25 *issues with either initial or renewal filings by the department, the*
26 *administrative law judge shall hear arguments as to why the case*
27 *should be heard, and shall consider factors such as the ability of*
28 *the inmate's counsel to adequately prepare the case and to confer*
29 *with the inmate, the continuity of care, and, if applicable, the need*
30 *for protection of the inmate or institutional staff that would be*
31 *compromised by a procedural default.*

32 (9) The historical course of the inmate's mental disorder, as
33 determined by available relevant information about the course of
34 the inmate's mental disorder, shall be considered when it has direct
35 bearing on the determination of whether the inmate is a danger to
36 self or others, or is gravely disabled and incompetent to refuse
37 medication as the result of a mental disorder.

38 (10) An inmate is entitled to file one motion for reconsideration
39 following a determination that he or she may receive involuntary

1 medication, and may seek a hearing to present new evidence, upon
2 good cause shown.

3 (d) Nothing in this section is intended to prohibit a physician
4 from taking appropriate action in an emergency. An emergency
5 exists when there is a sudden and marked change in an inmate's
6 mental condition so that action is immediately necessary for the
7 preservation of life or the prevention of serious bodily harm to the
8 inmate or others, and it is impractical, due to the seriousness of
9 the emergency, to first obtain informed consent. ~~If psychotropic~~
10 *psychiatric* medication is administered during an emergency, the
11 medication shall only be that which is required to treat the
12 emergency condition and shall be administered for only so long
13 as the emergency continues to exist, ~~but in no event longer than~~
14 ~~five days after the written notice and counsel are provided pursuant~~
15 ~~to subdivision (c), unless the department or sheriff first obtains an~~
16 ~~order from an administrative law judge authorizing the continuance~~
17 ~~of medication beyond five days. If the Department of Corrections~~
18 ~~and Rehabilitation's clinicians identify a situation that jeopardizes~~
19 ~~the inmate's health or well-being as the result of a serious mental~~
20 ~~illness, and necessitates the continuation of emergency medication~~
21 ~~beyond the initial 72 hours pending the full mental health hearing,~~
22 ~~the department shall give notice to the inmate and his or her~~
23 ~~counsel of the department's intention to seek an ex parte order to~~
24 ~~allow the continuance of medication pending the full hearing. The~~
25 ~~notice shall be served upon the inmate and counsel at the same~~
26 ~~time the inmate is given the written notice that the involuntary~~
27 ~~medication proceedings are being initiated and is appointed~~
28 ~~counsel as provided in subdivision (c).~~ The order may be issued
29 ex parte upon a showing that in the absence of the medication,
30 *there is a reasonable likelihood that* the emergency ~~is~~ conditions
31 are likely to recur. The request for an *ex parte* order shall be
32 supported by an affidavit ~~from the psychiatrist~~ showing specific
33 facts. The inmate ~~and the inmate's appointed counsel shall have~~
34 *two business days to respond to the department's ex parte request*
35 *to continue interim medication,* and may present facts supported
36 by an affidavit in opposition to the *department's* request. *An*
37 *administrative law judge shall review the ex parte request and*
38 *shall have three business days to determine the merits of the*
39 *department's request for an ex parte order.* If an order is issued,
40 the psychiatrist may continue the administration of the medication

1 until the hearing described in paragraph (5) of subdivision (c) is
2 held.

3 (1) The Department of Corrections and Rehabilitation ~~or sheriff~~
4 shall file with the Office of Administrative Hearings, and serve
5 on the inmate and his or her counsel, the written notice described
6 in paragraph (7) of subdivision (c) within 72 hours of commencing
7 medication pursuant to this subdivision, unless either of the
8 following occurs:

9 (A) The inmate gives informed consent to continue the
10 medication.

11 (B) A psychiatrist determines that the ~~psychotropic~~ *psychiatric*
12 medication is not necessary and administration of the medication
13 is discontinued.

14 (2) If medication is being administered pursuant to this
15 subdivision, the hearing described in paragraph (5) of subdivision
16 (c) shall commence within 21 days of the filing and service of the
17 notice, unless counsel for an inmate agrees to a ~~longer~~ *different*
18 period of time.

19 (3) With the exception of the timeline provisions specified in
20 paragraphs (1) and (2) of subdivision (d) for providing notice and
21 commencement of the hearing in emergency situations, the inmate
22 shall be entitled to and be given the same due process protections
23 as specified in subdivision (c). The department ~~or sheriff~~ shall
24 prove the same elements supporting the involuntary administration
25 of ~~psychotropic~~ *psychiatric* medication and the administrative law
26 judge shall be required to make the same findings described in
27 subdivision (c).

28 (e) The determination that an inmate may receive involuntary
29 medication shall be valid for one year from the date of the
30 determination, regardless of whether the inmate subsequently gives
31 his or her informed consent.

32 (f) If a determination has been made to involuntarily medicate
33 an inmate pursuant to subdivision (c) or (d), the medication shall
34 be discontinued one year after the date of that determination, unless
35 the inmate gives his or her informed consent to the administration
36 of the medication, or unless a new determination is made pursuant
37 to the procedures set forth in subdivision (g).

38 (g) To renew an existing order allowing involuntary medication,
39 the department ~~or sheriff~~ shall file with the Office of Administrative
40 Hearings *or superior court*, and shall serve on the inmate and his

1 or her counsel, ~~the written notice described in paragraph (7) of~~
2 ~~subdivision (e). The notice shall specify that the request is for a~~
3 ~~renewal~~ *a written notice indicating the department's intent to*
4 *renew the existing involuntary medication order.*

5 (1) The request to renew the order shall be filed and served no
6 later than 21 days prior to the expiration of the current order
7 authorizing involuntary medication.

8 (2) ~~To obtain a renewal order, the~~ *The* department ~~or sheriff~~
9 shall provide the same due process protections as specified in
10 subdivision (c). ~~The department or sheriff shall prove the same~~
11 ~~elements supporting the involuntary administration of psychotropic~~
12 ~~medication and the administrative law judge shall be required to~~
13 ~~make the same findings described in subdivision (e).~~

14 (3) Renewal orders shall be valid for one year from the date of
15 the hearing.

16 (4) An order renewing ~~a prior an existing order may~~ *shall* be
17 granted based on clear and convincing evidence that *the inmate*
18 *has a serious mental disorder that requires treatment with*
19 *psychiatric medication, and that,* but for the medication, the inmate
20 would revert to the behavior that was the basis for the prior order
21 authorizing involuntary medication, coupled with evidence that
22 the inmate lacks insight regarding his or her need for the
23 medication, such that it is unlikely that the inmate would be able
24 to manage his or her own medication and treatment regimen. No
25 new acts need be alleged or proven.

26 (5) *If the department wishes to add a basis to an existing order,*
27 *the department shall give the inmate and the inmate's counsel*
28 *notice in advance of the hearing via a renewal notice or*
29 *supplemental petition. Within the renewal notice or supplemental*
30 *petition, as described in subdivision (g), the department shall*
31 *specify what additional basis is being alleged and what qualifying*
32 *conduct within the past year supports that additional basis. The*
33 *department shall prove the additional basis and conduct by clear*
34 *and convincing evidence at a hearing as specified in subdivision*
35 *(c).*

36 ~~(5)~~
37 (6) The hearing on any petition to renew an order for involuntary
38 medication shall be conducted prior to the expiration of the current
39 order.

1 (h) Pursuant to Section 5058, the Department of Corrections
2 and Rehabilitation shall adopt regulations to fully implement this
3 section.

4 ~~(h)~~

5 (i) In the event of a conflict between the provisions of this
6 section and the Administrative Procedure Act (Chapter 4.5
7 (commencing with Section 11400) of Part 1 of Division 3 of the
8 Government Code), this section shall control.

9 SEC. 2. Section 2603 is added to the Penal Code, to read:

10 2603. (a) Except as provided in subdivision (b), no person
11 sentenced to imprisonment in a county jail pursuant to subdivision
12 (h) of Section 1170 shall be administered any psychiatric
13 medication without his or her prior informed consent.

14 (b) If a psychiatrist determines that an inmate should be treated
15 with psychiatric medication, but the inmate does not consent, the
16 inmate may be involuntarily treated with the medication. Treatment
17 may be given on either a nonemergency basis as provided in
18 subdivision (c), or on an emergency basis as provided in
19 subdivision (d).

20 (c) A county department of mental health may seek to initiate
21 involuntary medication on a nonemergency basis only if all of the
22 following conditions have been met:

23 (1) A psychiatrist or psychologist has determined that the inmate
24 has a serious mental disorder.

25 (2) A psychiatrist or psychologist has determined that, as a
26 result of that mental disorder, the inmate is gravely disabled and
27 does not have the capacity to refuse treatment with psychiatric
28 medications, or is a danger to self or others.

29 (3) A psychiatrist has prescribed one or more psychiatric
30 medications for the treatment of the inmate's disorder, has
31 considered the risks, benefits, and treatment alternatives to
32 involuntary medication, and has determined that the treatment
33 alternatives to involuntary medication are unlikely to meet the
34 needs of the patient.

35 (4) The inmate has been advised of the risks and benefits of,
36 and treatment alternatives to, the psychiatric medication and
37 refuses, or is unable to consent to, the administration of the
38 medication.

39 (5) The inmate is provided a hearing before a court-appointed
40 hearing officer.

1 (6) *The inmate is provided counsel at least 21 days prior to the*
2 *hearing, unless emergency medication is being administered*
3 *pursuant to subdivision (d), in which case the inmate would receive*
4 *expedited access to counsel. The hearing shall be held not more*
5 *than 30 days after the filing of the notice with the superior court,*
6 *unless counsel for the inmate agrees to extend the date of the*
7 *hearing.*

8 (7) *The inmate and counsel are provided with written notice of*
9 *the hearing at least 21 days prior to the hearing, unless emergency*
10 *medication is being administered pursuant to subdivision (d), in*
11 *which case the inmate would receive an expedited hearing. The*
12 *written notice shall do all of the following:*

13 (A) *Set forth the diagnosis, the factual basis for the diagnosis,*
14 *the basis upon which psychiatric medication is recommended, the*
15 *expected benefits of the medication, any potential side effects and*
16 *risks to the inmate from the medication, and any alternatives to*
17 *treatment with the medication.*

18 (B) *Advise the inmate of the right to be present at the hearing,*
19 *the right to be represented by counsel at all stages of the*
20 *proceedings, the right to present evidence, and the right to*
21 *cross-examine witnesses. Counsel for the inmate shall have access*
22 *to all medical records and files of the inmate, but shall not have*
23 *access to the confidential section of the inmate's central file which*
24 *contains materials unrelated to medical treatment.*

25 (C) *Inform the inmate of his or her right to contest the finding*
26 *of the court-appointed hearing officer authorizing treatment with*
27 *involuntary medication by filing a petition for writ of administrative*
28 *mandamus pursuant to Section 1094.5 of the Code of Civil*
29 *Procedure, and his or her right to file a petition for writ of habeas*
30 *corpus with respect to any decision of the county department of*
31 *mental health to continue treatment with involuntary medication*
32 *after the court-appointed hearing officer has authorized treatment*
33 *with involuntary medication.*

34 (8) *A court-appointed hearing officer determines by clear and*
35 *convincing evidence that the inmate has a mental illness or*
36 *disorder, that as a result of that illness the inmate is gravely*
37 *disabled and lacks the capacity to consent to or refuse treatment*
38 *with psychiatric medications or is a danger to self or others if not*
39 *medicated, that there is no less intrusive alternative to involuntary*
40 *medication, and that the medication is in the inmate's best medical*

1 *interest. In the event of any statutory notice issues with either*
2 *initial or renewal filings by the county department of mental health,*
3 *the court-appointed hearing officer shall hear arguments as to*
4 *why the case should be heard, and shall consider factors such as*
5 *the ability of the inmate's counsel to adequately prepare the case*
6 *and to confer with the inmate, the continuity of care, and, if*
7 *applicable, the need for protection of the inmate or institutional*
8 *staff that would be compromised by a procedural default.*

9 *(9) The historical course of the inmate's mental disorder, as*
10 *determined by available relevant information about the course of*
11 *the inmate's mental disorder, shall be considered when it has*
12 *direct bearing on the determination of whether the inmate is a*
13 *danger to self or others, or is gravely disabled and incompetent*
14 *to refuse medication as the result of a mental disorder.*

15 *(10) An inmate is entitled to file one motion for reconsideration*
16 *following a determination that he or she may receive involuntary*
17 *medication, and may seek a hearing to present new evidence, upon*
18 *good cause shown.*

19 *(d) Nothing in this section is intended to prohibit a physician*
20 *from taking appropriate action in an emergency. An emergency*
21 *exists when there is a sudden and marked change in an inmate's*
22 *mental condition so that action is immediately necessary for the*
23 *preservation of life or the prevention of serious bodily harm to the*
24 *inmate or others, and it is impractical, due to the seriousness of*
25 *the emergency, to first obtain informed consent. If psychiatric*
26 *medication is administered during an emergency, the medication*
27 *shall only be that which is required to treat the emergency*
28 *condition and shall be administered for only so long as the*
29 *emergency continues to exist. If the county department of mental*
30 *health's clinicians identify a situation that jeopardizes the inmate's*
31 *health or well-being as the result of a serious mental illness, and*
32 *necessitates the continuation of emergency medication beyond the*
33 *initial 72 hours pending the full mental health hearing, the county*
34 *department shall give notice to the inmate and his or her counsel*
35 *of its intention to seek an ex parte order to allow the continuance*
36 *of medication pending the full hearing. The notice shall be served*
37 *upon the inmate and counsel at the same time the inmate is given*
38 *the written notice that the involuntary medication proceedings are*
39 *being initiated and is appointed counsel as provided in subdivision*
40 *(c). The order may be issued ex parte upon a showing that, in the*

1 *absence of the medication, there is a reasonable likelihood that*
2 *the emergency conditions are likely to recur. The request for an*
3 *ex parte order shall be supported by an affidavit from the*
4 *psychiatrist or psychologist showing specific facts. The inmate*
5 *and the inmate's appointed counsel shall have two business days*
6 *to respond to the county department of mental health's ex parte*
7 *request to continue interim medication, and may present facts*
8 *supported by an affidavit in opposition to the department's request.*
9 *A court-appointed hearing officer shall review the ex parte request*
10 *and shall have three business days to determine the merits of the*
11 *department's request for an ex parte order. If an order is issued,*
12 *the psychiatrist may continue the administration of the medication*
13 *until the hearing described in paragraph (5) of subdivision (c) is*
14 *held.*

15 *(1) The county department of mental health shall file with the*
16 *superior court, and serve on the inmate and his or her counsel,*
17 *the written notice described in paragraph (7) of subdivision (c)*
18 *within 72 hours of commencing medication pursuant to this*
19 *subdivision, unless either of the following occurs:*

20 *(A) The inmate gives informed consent to continue the*
21 *medication.*

22 *(B) A psychiatrist determines that the psychiatric medication*
23 *is not necessary and administration of the medication is*
24 *discontinued.*

25 *(2) If medication is being administered pursuant to this*
26 *subdivision, the hearing described in paragraph (5) of subdivision*
27 *(c) shall commence within 21 days of the filing and service of the*
28 *notice, unless counsel for the inmate agrees to a different period*
29 *of time.*

30 *(3) With the exception of the timeline provisions specified in*
31 *paragraphs (1) and (2) for providing notice and commencement*
32 *of the hearing in emergency situations, the inmate shall be entitled*
33 *to and be given the same due process protections as specified in*
34 *subdivision (c). The county department of mental health shall prove*
35 *the same elements supporting the involuntary administration of*
36 *psychiatric medication and the court-appointed hearing officer*
37 *shall be required to make the same findings described in*
38 *subdivision (c).*

39 *(e) The determination that an inmate may receive involuntary*
40 *medication shall be valid for one year from the date of the*

1 *determination, regardless of whether the inmate subsequently gives*
2 *his or her informed consent.*

3 *(f) If a determination has been made to involuntarily medicate*
4 *an inmate pursuant to subdivision (c) or (d), the medication shall*
5 *be discontinued one year after the date of that determination,*
6 *unless the inmate gives his or her informed consent to the*
7 *administration of the medication, or unless a new determination*
8 *is made pursuant to the procedures set forth in subdivision (g).*

9 *(g) To renew an existing order allowing involuntary medication,*
10 *the county department of mental health shall file with the superior*
11 *court, and shall serve on the inmate and his or her counsel, a*
12 *written notice indicating the department's intent to renew the*
13 *existing involuntary medication order.*

14 *(1) The request to renew the order shall be filed and served no*
15 *later than 21 days prior to the expiration of the current order*
16 *authorizing involuntary medication.*

17 *(2) The county department of mental health shall provide the*
18 *same due process protections as specified in subdivision (c).*

19 *(3) Renewal orders shall be valid for one year from the date of*
20 *the hearing.*

21 *(4) An order renewing an existing order shall be granted based*
22 *on clear and convincing evidence that the inmate has a serious*
23 *mental disorder that requires treatment with psychiatric*
24 *medication, and that, but for the medication, the inmate would*
25 *revert to the behavior that was the basis for the prior order*
26 *authorizing involuntary medication, coupled with evidence that*
27 *the inmate lacks insight regarding his or her need for the*
28 *medication, such that it is unlikely that the inmate would be able*
29 *to manage his or her own medication and treatment regimen. No*
30 *new acts need be alleged or proven.*

31 *(5) If the county department of mental health wishes to add a*
32 *basis to an existing order, it shall give the inmate and the inmate's*
33 *counsel notice in advance of the hearing via a renewal notice or*
34 *supplemental petition. Within the renewal notice or supplemental*
35 *petition, as described in subdivision (g), the county department of*
36 *mental health shall specify what additional basis is being alleged*
37 *and what qualifying conduct within the past year supports that*
38 *additional basis. The county department of mental health shall*
39 *prove the additional basis and conduct by clear and convincing*
40 *evidence at a hearing as specified in subdivision (c).*

1 (6) *The hearing on any petition to renew an order for*
2 *involuntary medication shall be conducted prior to the expiration*
3 *of the current order.*

4 (h) *In the event of a conflict between the provisions of this*
5 *section and the Administrative Procedure Act (Chapter 4.5*
6 *(commencing with Section 11400) of Part 1 of Division 3 of the*
7 *Government Code), this section shall control.*

8 (i) *For purposes of this section, “counsel” may include the*
9 *county patient rights advocate.*

10 ~~SEC. 2.~~

11 SEC. 3. If the Commission on State Mandates determines that
12 this act contains costs mandated by the state, reimbursement to
13 local agencies and school districts for those costs shall be made
14 pursuant to Part 7 (commencing with Section 17500) of Division
15 4 of Title 2 of the Government Code.